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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,446	11/12/2003	William A. Fotino	26512-501	8001
7590	04/19/2005			EXAMINER
Brian P. Hopkins, Esq. Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C The Chrysler Center 666 Third Avenue, 24th Floor New York, NY 10017			FERGUSON, MICHAEL P	
			ART UNIT	PAPER NUMBER
			3679	
DATE MAILED: 04/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/706,446	FOTINO ET AL.	
	Examiner	Art Unit	
	Michael P. Ferguson	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 21-27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kincaid et al. (US 6,076,840).

As to claim 21, Kincaid et al. disclose a ball joint assembly comprising a ball stud **52'** having a spherical surface **56'** to be received by a ball socket, a threaded portion **82'** having a thread diameter for being received by a corresponding fastener, and a wrench flat **58** having a deck height for receiving a tool to restrain the ball stud (Figures 2 and 4).

Kincaid et al. fail to disclose a ball joint assembly comprising a ball stud having a threaded portion having about an 8 mm or 5/16" thread diameter and a wrench flat having a deck height between about 4.50 mm and 6.50 mm.

The applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a ball joint assembly as disclosed by Kincaid et al. to have a ball stud having a threaded portion having about an 8 mm or 5/16" thread diameter and a wrench flat having a deck height between about

4.50 mm and 6.50 mm as such practice is a design consideration within the skill of the art.

As to claims 22 and 25, Kincaid et al. disclose a motor vehicle having a ball joint assembly comprising a ball stud **52'** having a spherical surface **56'** to be received by a ball socket, a threaded portion **82'** having a thread diameter for being received by a corresponding fastener, and a wrench flat **58** having a deck height for receiving a tool to restrain the ball stud (Figures 2 and 4).

Kincaid et al. fail to disclose a motor vehicle having a ball joint assembly comprising a ball stud having a threaded portion having about an 10 mm or 3/8" thread diameter and a wrench flat having a deck height between about 5.00 mm and 8.00 mm.

The applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a motor vehicle as disclosed by Kincaid et al. to have a ball stud having a threaded portion having about an 10 mm or 3/8" thread diameter and a wrench flat having a deck height between about 5.00 mm and 8.00 mm as such practice is a design consideration within the skill of the art.

As to claims 23 and 26, Kincaid et al. disclose a motor vehicle having a ball joint assembly comprising a ball stud **52'** having a spherical surface **56'** to be received by a ball socket, a threaded portion **82'** having about a thread diameter for being received by a corresponding fastener, and a wrench flat **58** having a deck height for receiving a tool to restrain the ball stud (Figures 2 and 4).

Kincaid et al. fail to disclose a motor vehicle having a ball joint assembly comprising a ball stud having a threaded portion having about an 12 mm or 7/16" thread diameter and a wrench flat having a deck height between about 6.00 mm and 9.00 mm.

The applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a motor vehicle as disclosed by Kincaid et al. to have a ball stud having a threaded portion having about an 12 mm or 7/16" thread diameter and a wrench flat having a deck height between about 6.00 mm and 9.00 mm as such practice is a design consideration within the skill of the art.

As to claims 24 and 27, Kincaid et al. disclose a motor vehicle having a ball joint assembly comprising a ball stud **52'** having a spherical surface **56'** to be received by a ball socket, a threaded portion **82'** having a thread diameter for being received by a corresponding fastener, and a wrench flat **58** having a deck height for receiving a tool to restrain the ball stud (Figures 2 and 4).

Kincaid et al. fail to disclose a motor vehicle having a ball joint assembly comprising a ball stud having a threaded portion having about a 14mm, 1/2", or 9/16" thread diameter and a wrench flat having a deck height between about 6.00 mm and 10.00 mm.

The applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Accordingly, it would have been obvious to one having ordinary skill

in the art at the time the invention was made to modify a motor vehicle as disclosed by Kincaid et al. to have a ball stud having a threaded portion having about a 14mm, 1/2", or 9/16" thread diameter and a wrench flat having a deck height between about 6.00 mm and 10.00 mm as such practice is a design consideration within the skill of the art.

Response to Arguments

3. Applicant's arguments filed March 21, 2005 have been fully considered but they are not persuasive.

As to claims 21-27, Attorney argues that:

Kincaid et al. do not disclose a ball joint assembly comprising a ball stud having a threaded portion having *about the claimed thread diameter* and a wrench flat having a deck height *within the claimed range*.

Examiner disagrees. The applicant is reminded that a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). Accordingly, as to claims 21-27, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a ball joint assembly as disclosed by Kincaid et al. to have a ball stud having a threaded portion having about the claimed thread diameter and a wrench flat having a deck height between the claimed range as such practice is a design consideration within the skill of the art.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3679

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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